

Attorney for the Department of Insurance

IN THE MATTER OF

Respondents.

CONSENT AGREEMENT AND FINAL ORDER

RECITALS

WHEREAS, the Department completed an investigation, alleged that the Respondents were not in compliance with Mont. Code Ann. § 33-17-502(2);

WHEREAS, Respondents cooperated with the Department and endeavored to achieve compliance with Mont. Code Ann. § 33-17-301 and § 33-17-502(2); and

WHEREAS, the Department and the Respondents agree that the parties' best interests would be served by entering into the following specific agreement and undertakings set forth below.

NOW, THEREFORE, in consideration of the mutual undertakings established herein, the Department and the Respondents Sherco Construction, Inc., Tom Carlisle and Ty Malek enter into the following:

STIPULATIONS AND CONSENTS

I. Without admitting or denying any of the CSI's allegations in the Department's Notice of Proposed Agency Action dated December 30, 2010, incorporated herein by reference, Respondents stipulate and consent to the following:

A. Within ten days from the execution of the Final Order, each Respondent shall pay a \$150.00 fine to the state of Montana. The fine should be made payable to the Montana State Auditor's Office and sent to the Office of the Commissioner of Securities and Insurance, c/o Brett O'Neil, Attorney, 840 Helena Avenue, Helena, MT 59601.

B. Within 30 days from the execution of this agreement, a representative of Respondent Sherco Construction, Inc. will sit for the public adjuster examination and the consultant examination.

C. Until said exams are passed and the representative is licensed through this office, Respondents will cease acting as a public adjuster and/or a consultant.

Additionally, only the aforementioned representative will act as a public adjuster and/or consultant upon licensing.

D. The Respondents fully and forever release and discharge the Commissioner of Securities and Insurance, Montana State Auditor (Commissioner), the CSI, and all of the CSI's employees and agents from any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of this Agreement.

E. This Agreement is entered without adjudication of any issue, law or fact. It is entered into solely for the purpose of resolving the CSI's investigation and allegations and is not intended to be used for any other purpose. For any person or entity not a party to this Agreement, this Agreement does not limit or create any private rights or remedies against the Respondents including limiting or creating liability of Respondents, or limiting or creating defenses of Respondents, to any claims.

F. Upon execution of this Agreement, Respondents acknowledge and waive their right to appeal the Commissioner's Order.

G. This Agreement constitutes the entire agreement between the parties and no other promises or agreements, either express or implied, have been made by the CSI or by any member, officer, agent or representative of the CSI to induce Respondents to enter into this Agreement.

H. This Agreement may not be modified orally and any subsequent modifications to this Agreement must be mutually agreed upon in writing to be effective.

I. This Agreement shall be incorporated into and made a part of the attached Final Order issued by the Commissioner herein.

J. Upon execution of this Agreement, the CSI will not commence any civil or administrative action against the Respondents based upon the activities giving rise to the CSI's investigation that occurred prior to the execution of this Agreement.

K. This Consent Agreement shall be effective upon signing of the Final Order.

L. Respondents further understand that, upon the signing of the Final Order by the Commissioner or her representative, this Agreement will be an order of the Commissioner and failure to comply with the same may constitute separate violations of the Montana Insurance Code, § 33-1-101, *et seq.* and/or other applicable statutes or rules, and may result in subsequent legal action by the CSI.

M. Upon Respondents' full performance of the stipulations and consents contained herein, the Temporary Cease and Desist Order dated December 30, 2010 shall be vacated.

N. The Agreement is a public record under Montana law and as such may not be sealed or otherwise withheld from the public.

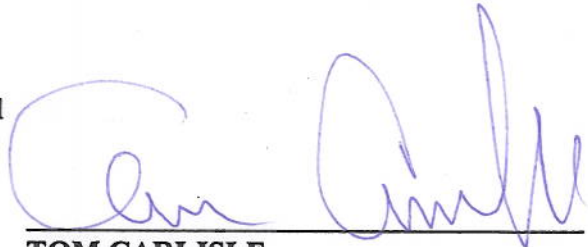
DATED this 19th day of January, 2011

INSURANCE DEPARTMENT

By: 

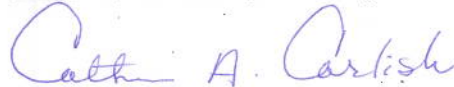
BRETT O'NEIL
Attorney

DATED this 31 day of Jan, 2011


TOM CARLISLE

STATE OF Minn.)
County of: Anoka) :ss.

SUBSCRIBED and SWORN to before me this 31 day of January 2011, by Tom Carlisle.



(SEAL)

(Signature)



DATED this 31 day of Jan, 2011

SHERCO CONSTRUCTION, INC.

By: [Signature]

Its: VP

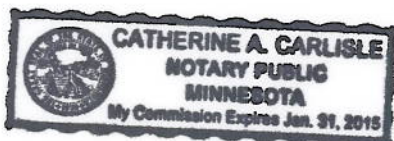
STATE OF Minn)
County of: Anoka) :ss.

SUBSCRIBED and SWORN to before me this 31 day of January 2011, by Tom Carlisle.

[Signature]

(SEAL)

(Signature)

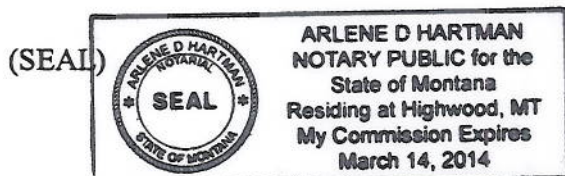


DATED this 7th day of Feb. ~~January 2011~~


TY MALEK

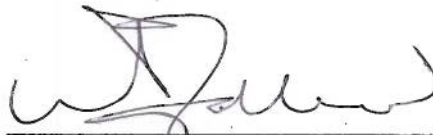
STATE OF MONTANA)
 :SS.
County of: Chouteau)

SUBSCRIBED and SWORN to before me this 7 day of FEBRUARY ~~January~~ 2011, by Ty Malek.




(Signature)
ARLENE D HARTMAN

Content approved by Attorney for Respondents:


WILL BALLEW

FINAL ORDER

Pursuant to the authority vested by Mont. Code Ann. § 2-4-603 and § 33-1-101, *et seq.*,
and upon review of the foregoing Consent Agreement and good cause appearing,

IT IS HEREBY ORDERED that the foregoing Consent Agreement between the CSI and
Respondents Sherco Construction, Inc., Tom Carlisle, and Ty Malek is adopted as if set forth
fully herein.

DATED this 10th day of February, 2011.

MONICA J. LINDEEN
Commissioner of Securities and Insurance
Montana State Auditor

By: ROBERT MOON
ROBERT MOON
Deputy Insurance Commissioner

cc. Brett O'Neil
Will Ballew
Sherco Construction, Inc.
Tom Carlisle
Ty Malek